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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,421	09/30/2003	John William Geurtsen	MUCC/25	6179
26875	7590	08/09/2005	EXAMINER	
WOOD, HERRON & EVANS, LLP 2700 CAREW TOWER 441 VINE STREET CINCINNATI, OH 45202			PURVIS, SUE A	
			ART UNIT	PAPER NUMBER
			1734	

DATE MAILED: 08/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/675,421

Applicant(s)

GEURTSEN, JOHN WILLIAM

Examiner

Sue A. Purvis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 May 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
    Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
    Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-7, 10, and 15-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Asghar et al. (US Patent No. 4,735,664).

Regarding claim 1, Asghar discloses a system for applying labels to articles. The system includes a turret (200) provided for positioning the articles at the conveying and decorating stations. Including a drive assembly (10D) which provides continuous and intermittent rotational motion. (Col. 6, lines 41-49.) Figure 1 shows a plurality of decorating stations each with an independent web and a transfer roller (24T). (Figures 2 and 4; Col. 6, lines 10-16.) Each of the articles are capable of receiving a label from each decorating station.

Regarding claim 2, Asghar includes a processor operably coupled to various parts of the system to coordinate the article conveyor and each of the decorating stations, coordinating intermittent motion of the articles on the article conveyor along.

Regarding claims 3 and 4, Asghar includes a drive assembly (10D) for driving the article conveyor or turret.

Regarding claim 5, Asghar includes a plurality of rotatable article holding assemblies (10C), proximate to the decorating stations, and adapted to receive the selected article for processing by the associated decorating station.

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Regarding claim 6, each article holding assembly includes an article seat (10C) beneath the article for receiving the article. (Figure 8.)

Regarding claim 7, the article holding assembly includes a nozzle (26I) disposed above the article and in communication with an air source and adapted to contact the article in such manner as to inflate the article with air. (Figures 5 and 7; Col. 7, lines 34-48.)

Regarding claim 8, the holding assemblies (10C) have a drive mechanism. (Col. 7, lines 3-30.)

Regarding claim 9, the decorating stations (10T) includes a drive system (40T). (Col. 6, lines 10-38.)

Regarding claim 10, the stopping period which occurs because the turret rotation is intermittent is capable of occurring proximate one of the decorating stations. A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. *Ex parte Masham*, 2 USPQ2d 1647 (BPAI 1987).

Regarding claim 11, while Asghar does not discuss the speed of it's labeling, it is designed for great efficiency and speed. (Col. 1, lines 67-68; Col. 2, lines 1-3.) Furthermore, labeling processes at the speed of 150 labels per minute is known in the art<sup>1</sup>, the examiner is taking the position that the device of Asghar is capable of operating at a rate of greater than 150 labels per minute because it has all the structural limitations of the claim.

Regarding claim 12, wherein the decorating stations comprise heat sources (34R, 26T) for enhancing application of the labels to said articles.

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<sup>1</sup> Slater (US Patent No. 4,082,595) and Freedman (US Patent No. 5,516,393) are labeling devices which label at the speed set forth in the claim.

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Regarding claim 13, the decorating stations are capable of simultaneously applying labels to articles.

Regarding claim 14, the decorating stations are capable of applying a label to the same article.

Regarding claim 15, the features of claim 15 are disclose above.

Regarding claim 16-24, the features of these method claims are sufficiently disclosed in the discussion of the apparatus of Asghar.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Asghar as applied to claim 1 above, and further in view of Slater (US Patent No. 4,082,595) or Freedman (US Patent No. 5,516,393).

Regarding claim 11, while Asghar does not discuss the speed of it's labeling, it is designed for great efficiency and speed. (Col. 1, lines 67-68; Col. 2, lines 1-3.)

Slater and Reed disclose labeling processes at the speed of 150 labels per minute is known in the art.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to run the device of Asghar at a great speed, such as greater than 150 labels per minute, because a faster more efficient is desired in labeling operations.

***Response to Arguments***

5. Applicant's arguments with respect to claims 1-24 have been considered but are moot in view of the new grounds of rejection.

***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sue A. Purvis whose telephone number is (571) 272-1236. The examiner can normally be reached on Monday through Friday 9am to 6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher A. Fiorilla can be reached on (571) 272-1187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Sue A. Purvis', with a stylized flourish at the end.

Sue A. Purvis  
Primary Examiner  
Art Unit 1734

SP  
August 5, 2005